

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
BECKLEY DIVISION**

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PHILLIPS MACHINE SERVICE, INC., *et al.*

Plaintiffs,

v.

SOUTHERN COAL CORPORATION, *et al.*

Defendants.

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NORFOLK SOUTHERN RAILWAY COMPANY

Garnishee.

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Civil Action No. 5:14-cv-27107

The Honorable Irene C. Berger

**STIPULATION OF DISMISSAL WITH PREJUDICE**

IT IS HEREBY STIPULATED, pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, by and between Phillips Machine Service, Inc., The Combs Group, Inc., (collectively “Plaintiffs”) and Norfolk Southern Railway Company (“Norfolk Southern”) that the above-captioned matter bearing Civil Action No. 5:14-cv-27107 is dismissed with prejudice, including the Suggestions issued by Plaintiffs against Norfolk Southern. However, the dismissal of the above-captioned matter is without prejudice to the parties completing discovery pursuant to the subpoena issued by Plaintiffs on December 23, 2014, in the matter of the Circuit Court of Raleigh County, West Virginia, Civil Action No. 13-C-818. Each party shall bear their own costs and fees.

By: /s/ Alexis B. Mattingly  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that she served the forgoing "*STIPULATION OF DISMISSAL WITH PREJUDICE*" upon the following individuals was this day forwarded upon counsel of record via electronic filing with the Court's CM/ECF system on the 20<sup>th</sup> of January 2015, to:

Marc Weintraub, Esquire  
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/s/ Alexis B. Mattingly